

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

KENDRA LALIBERTE,)
Plaintiff,)
v.) C.A. No. 13-515 S
CAROLYN W. COLVIN,)
Commissioner of the)
Social Security Administration,)
Defendant.)

)

ORDER

WILLIAM E. SMITH, Chief Judge.

On May 29, 2014, United States Magistrate Judge Lincoln D. Almond issued a Report and Recommendation ("R&R") (ECF No. 13) in the above-captioned matter recommending that Plaintiff's Motion to Reverse the Decision of the Commissioner (ECF No. 10) be granted and Defendant's Motion for an Order Affirming the Decision of the Commissioner (ECF No. 12) be denied. Magistrate Judge Almond further recommended that final judgment enter in favor of Plaintiff Kendra Laliberte, remanding this matter for further administrative proceedings. Defendant has filed an objection to the R&R (ECF No. 14). For the reasons that follow, Defendant's objection to the R&R is OVERRULED, and the R&R is ADOPTED.

In reaching his decision, Magistrate Judge Almond reasoned that the administrative law judge's rejection of opinion testimony from a vocational expert was not supported by substantial evidence. In essence, Defendant's objection argues that focusing on the vocational expert's testimony is a red herring. Instead, according to the Defendant, "there are four factors – and four factors only – relevant to determining whether a claimant can perform other jobs in the national economy: (1) residual functional capacity (RFC); (2) age; (3) education; and (4) work experience." (Def.'s Mem. in Supp. of its Objection to Magistrate Judge's Report and Recommendation 1-2 (citing 20 C.F.R. §§ 404.1560 and 416.960), ECF No. 14.)

Defendant overlooks, however, that Magistrate Judge Almond properly based his decision upon the federal regulations that permit relying on a vocational expert "[i]f the issue in determining whether [the applicant is] disabled is whether [her] work skills can be used in other work and the specific occupations in which they can be used, or there is a similarly complex issue." (R&R 14 (quoting 20 C.F.R. §§ 404.1566(e) and 416.966(e)), ECF No. 13.) In this case, as Magistrate Judge Almond notes, the vocational expert was called upon to opine about the type of work Plaintiff was capable of doing.

The Court has reviewed the respective motions of the parties, the record, and Defendant's objection, and is in

complete agreement with the analysis and recommendation set forth in the R&R, and hereby adopts it pursuant to 28 U.S.C. § 636(b)(1). Therefore, Defendant's objection to the R&R is OVERRULED, and the R&R is ADOPTED. Final judgment shall enter in favor of Plaintiff, and this matter is remanded for further administrative proceedings consistent with this Order.

IT IS SO ORDERED.



William E. Smith
Chief Judge
Date: August 20, 2014